

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

ERNEST RUTHERFORD and)
AFFORDABLE TRANSPORTATION,)

Plaintiffs,)

vs.)

Case No. 05-0837-CV-W-ODS

SCHNEIDER NATIONAL CARRIERS,)
INC., and STANLEY HULTBERG,)

Defendants.)

ORDER AND OPINION GRANTING DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT ON PLAINTIFFS' CLAIM FOR PUNITIVE DAMAGES

On August 28, 2006, Defendants filed a Motion for Summary Judgment on Plaintiffs' claims for punitive damages. Plaintiffs did not respond, and on October 20 the Court directed Plaintiffs to show cause why the motion should not be granted. On November 1, Plaintiff Ernest Rutherford dismissed all of his claims in this suit, and the next day Plaintiff Affordable Transportation responded to the Order to Show Cause by contending Defendants' motion was rendered moot by Rutherford's dismissal. The Court disagrees; the Complaint seeks punitive damages for both plaintiffs, and Defendants' motion targeted the requests made by both plaintiffs. Thus, dismissal of Rutherford's claims has no effect on Affordable Transportation's request for punitive damages. However, Plaintiffs' position demonstrates their belief or understanding that Affordable Transportation is not seeking (or cannot recover) punitive damages. This, combined with the arguments presented in Defendants' motion, persuades the Court the claim for punitive damages should be rejected. Defendants' motion (Doc. # 52) is granted, and Defendants are granted judgment on Plaintiffs' claims for punitive damages.

IT IS SO ORDERED.

/s/ Ortrie D. Smith
ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT

DATE: November 8, 2006